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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/058,183	01/26/2002	Richard Daigre	7604	4882

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EXAMINER

KING, BRADLEY T

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/058,183

Applicant(s)

DAIGRE, RICHARD

Examiner

Bradley T King

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13,14,25,27,30 and 32 is/are allowed.
- 6) ☒ Claim(s) 1-12,15-24,26,28,29 and 31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 01/07/2005 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10, 12, 15-24, 26, 28-29 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cox (US# 2328619) in view of Massey (US# 1476989).

Cox discloses a brake actuator including: a brake (see figure 3) having a friction surface, a brake member (46, 48), a mechanical activator 45, the mechanical activator

being mounted to the intermediate member 45 for movement between a first and second positions, the mechanical actuator being on a first side of the rotational axis of the rotary shaft, a spring 51, means to connect the spring to the intermediate member, a cavity, the cavity being in the intermediate member, said cavity being on the same first side of the rotational axis of the rotary shaft as the mechanical actuator, a piston 53, the piston being in the cavity to define a chamber, the piston moveable in the cavity in a first direction, the first direction being substantially perpendicular to the rotational axis of the shaft, connect means to connect the piston to the spring and pressurization means 54 to pressurize the chamber to move the spring. Cox lacks the cavity being displaced from the friction surface in respect to the longitudinal length of the rotational axis of the shaft. It is well known in the art and further demonstrated by Massey to displace actuators depending on space considerations to provide compact structure. It would have been obvious to one of ordinary skill in the art at the time the invention was made to displace the cavity of Cox from the friction surface in respect to the longitudinal of the rotational axis such as known in the art and further demonstrated by Massey, as an obvious design alternative, allowing for a compact installation. Also note *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950).

Regarding claim 6-7, Cox discloses a pressure plug 53, a spring plug 49-50, and means interconnecting the two.

Regarding claim 9, Cox shows deactivating means 53.

Regarding claim 12, Cox discloses a stop in the form of the two ends of rods 49 which stop further spring compression when they come into contact.

Allowable Subject Matter

Claims 13-14, 25, 27, 30 and 32 are allowed.

Response to Arguments

Applicant's arguments filed 01/07/2005 have been fully considered but they are not persuasive.

Applicant's arguments with regards to Cox are not persuasive. The passages noted by applicant only specify that the actuator not extend past the brake shoes. It is maintained that the mere axial displacement of the actuator of Cox does not contradict this disclosure, and further would reduce the height of the brake device.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley T King whose telephone number is (703) 308-8346. The examiner can normally be reached on 11:00-7:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on (703) 308-0830. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3683

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BTK

Robert A. Siconolfi 2/7/05
ROBERT A. SICONOLFI
PATENT EXAMINER